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ABSTRACT

This document identifies those states that have legislation enabling faculty and other employees in public higher education to form a union and to bargain collectively with the employer. The state name, educational level(s) with current contract or recognized unity, and year of enactment are indicated for (1) states that have specific legislation that deals with public employees in postsecondary educational institutions; (2) states in which there is no specific or special postsecondary mention in the language of the legislation of an omnibus public employee bill but where by implication or interpretation postsecondary personnel and institutions are included; (3) states which have no collective negotiations legislation for postsecondary education but in which there are de facto postsecondary contracts or employee unit recognition and in which some legislative activity in respect to legalization of the de facto situation has taken place since 1970; (4) states in which there has been considerable to moderate legislative activity since 1970 of an omnibus legislation level in which postsecondary personnel would have been included; and (5) states with no activity during the period 1970-73. (MJM)

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SPECIAL REPORT #4

POSTSECONDARY PUBLIC EMPLOYMENT LEGISLATION

REVISED STATUS REPORT - AUGUST 1974

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INTRODUCTION

In late 1971 the Education Commission of the States set up an Advisory Task Force on collective negotiations in post secondary education. This group produced in May 1972 a monograph entitled Faculty Collective Bargaining in Postsecondary Institutions: The Impact on the Campus and the State, and also began monitoring trends in faculty and other employee collective negotiations in each of the fifty states. It became apparent that a further study in the form of a "Handbook" was needed which could assist state legislative committees, reference services and drafting services on the problems of existing and potential legislation with respect to postsecondary education. This second publication was commissioned and is now completed. It is entitled Collective Bargaining in Postsecondary Educational Institutions: Applications and Alternatives in the Formulation of Enabling Legislation. It is available from the Education Commission of the States, 1860 Lincoln Street, Suite 300, care of Publications Secretary, Denver, Colorado 80203. The cost is $3.50.

In connection with that study, Dr. Thomas Emmet researched the current status of each state's legislation with the assistance of Nancy Berve, Chris Pippo and Doris Ross of the Education Commission of the States staff. With the permission of ECS, a summary was published earlier in 1974 by ACBIS. This report reprints that summary, with an update of legislative activity from January 1, 1974 until July 31, 1974.

* Statements made and views expressed herein are solely those of the author.

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ANALYSIS AND BASIC DATA

Of special interest are the following points:

(1) The first state laws covering public employees in general were passed as early as 1959. The first law applied to postsecondary teaching personnel was the 1965 Michigan Law; however, K-12 teaching personnel had been covered as early as 1961 in a formal fashion in at least two states.

(2) Twenty-four states currently have some form of formal statute which covers employees in postsecondary institutions. However, in several states the provisions do not cover teaching staff, but only staff employees.

(3) Of the twenty-six states without some form of enabling postsecondary legislation, twenty-three have had legislative activity in this area since 1970. Only Louisiana, Mississippi and South Carolina report no direct postsecondary collective negotiations legislative activity in that period.

(4) In twenty states which have extensive and comprehensive public employment legislation, eleven use a created Public Employment Relations Board to administer the legislation and nine use their existing private sector labor boards or commissions as the regulatory agency.

The following chart on postsecondary public employee legislation may be of particular interest.

Group A - States which have specific legislation which deals with public employees in postsecondary educational institutions:

	STATE	EDUCATIONAL LEVEL(S) WITH CURRENT CONTRACT OR RECOGNIZED UNIT		YEAR OF LAW ENACTMENT
1	Alaska[1]		2 year[4]	1972
2	Florida	4 year[4]	2 year	1974
3	Hawaii[1]	4 year	2 year	1970,71
4	Kansas[2]		2 year	1970
5	Minnesota[1]		2 year	1971,72
6	Montana		2 year	1973,74
7	Nebraska	4 year		1969
8	New Hampshire	4 year[4]	2 year[4]	
9	New York[1]	4 year	2 year	1967,69,71

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	STATE	EDUCATIONAL LEVEL(S) WITH CURRENT CONTRACT OR RECOGNIZED UNIT		YEAR OF LAW ENACTMENT
10	Oregon[1]	4 year	2 year	1973
11	Pennsylvania[1]	4 year	2 year	1970
12	South Dakota[1]			1970
13	Vermont[1]	4 year		1969,72
14	Washington[3]	4 year[5]	2 year	1971,73

[1]Within omnibus public employment legislation.
[2]Meet and confer rather than mandatory legislation.
[3]Specific special legislation for community colleges.
[4]Nonteaching employees only.
[5]State has a law covering nonprofessional employees in state colleges and universities.

Group B - States in which no specific or special postsecondary mention in the language of the legislation of an omnibus public employee bill but where by implication or interpretation postsecondary personnel and institutions are included:

	STATE	EDUCATIONAL LEVEL(S) WITH CURRENT CONTRACT OR RECOGNIZED UNIT		YEAR OF LAW ENACTMENT
1	Connecticut[2]	Vocational/Technical		1969
2	Delaware	4 year		1965
3	Iowa			1974
4	Maine[2]	Vocational/Technical		1970,74
5	Massachusetts	4 year	2 year	1970,73
6	Michigan	4 year	2 year	1965
7	Nevada[1]			1969,7
8	New Jersey	4 year	2 year	1968
9	Rhode Island	4 year	2 year	1970
10	Wisconsin[2]	Vocational/Technical		1971

ommunity colleges may be looked upon as special districts under local government Employee Relations Act; however, university system employees would not be covered.
[2]Vocational/Technical schools only - does not cover four or two year state institutions' academic employees.

Group C - States which have no collective negotiations legislation for postsecondary education but in which there are de facto postsecondary contracts or employee unit recognition and in which some legislative activity in respect to legalization of the de facto situation has taken place since 1970:

	STATE	EDUCATIONAL LEVEL(S) WITH CURRENT CONTRACT OR RECOGNIZED UNIT	
1	Colorado		2 year
2	Illinois[1]		2 year
3	Maryland[2]	4 year	2 year
4	Ohio	4 year	

[1]Court decision allows teachers and other local employees to bargain. Non-academic employees bargain under University Personnel Code of the state by a governor's executive order.

[2]State has local government collective negotiations act for Baltimore County and also allows K-12 personnel to bargain under legislation.

Group D - States in which there has been considerable to moderate legislative activity since 1970 of an omnibus legislation level in which postsecondary personnel would have been included:

	STATE		STATE
1	Alabama	11	North Carolina[3]
2	Arizona	12	North Dakota[1&4]
3	Arkansas	13	Oklahoma[1]
4	California[2]	14	Tennessee
5	Georgia	15	Texas
6	Idaho[1]	16	Utah
7	Indiana[1]	17	Virginia
8	Kentucky	18	West Virginia
9	Missouri[2&3]	19	Wyoming
10	New Mexico[5]		

[1]State has a K-12 professional negotiations act of a mandatory or meet and confer nature.

[2]State has an omnibus Public Employment Act of a meet and confer nature, but postsecondary personnel are not covered under statute.

[3]State has laws prohibiting public employees and employers from bargaining in educational settings.

[4]North Dakota has a limited public negotiations act for state and municipal employees.

[5]New Mexico has a set of State Personnel Board Regulations which allow for some of the aspects of collective negotiations of a permissive nature for public employees. The regulations are not, however, a formal public employees law; In effect, New Mexico is in a class by itself.

Group E - States with no activity during the period 1970-1973.

	STATE
1	Louisiana
2	Mississippi
3	South Carolina[1]

[1]Passed a Grievance Procedure Act only in 1971.

The Education Commission of the States maintains a detailed legislative analysis service in its Research Division which monitors the progress of educational legislation in each of the fifty states. This is published each year in a report series entitled Research Brief - Legislative Achievement Series. Years 1972, 1973 and 1974 are available from the Education Commission of the States, 1860 Lincoln Street, Suite 300, Denver, Colorado.

SUMMARY

From the Education Commission of the States' research data, it would appear that seventeen states have, to date, (August 1974) passed comprehensive legislation that covers all personnel in postsecondary education. Alaska, Florida, Delaware, Hawaii, Iowa, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, South Dakota and Vermont clearly, by statute, allow collective negotiations for teachers and staff in postsecondary institutions. Kansas, Nevada and Washington cover community college teaching and staff personnel by specific or interpretable legislation. In addition, Wisconsin and Maine cover vocational/technical faculty and staff.

Illinois, New Mexico, New Hampshire and Washington cover staff, but not teaching personnel in four-year institutions by state personnel regulations in the first two states and by statute in the latter two.

PROJECTIONS

The following are tables of states in which legislative activity along fairly specific lines is projected for post-secondary public employees during the 1975 legislative session:

Group A - States which have public employee laws covering all or most other educational public employees in which an extension of specific legislation to cover 4 year and 2 year teaching employees is expected to be introduced.

1	Connecticut	- To 2 & 4 year personnel.
2	Kansas	- To 4 year personnel.
3	Maine	- To 2 & 4 year personnel.
4	Maryland	- To 2 & 4 year personnel.
5	New Hampshire	- To 2 & 4 year personnel.
6	Nevada	- To 4 year personnel and clarification of 2 year personnel.
7	North Dakota	- To 2 & 4 year personnel.
8	Washington	- To 4 year personnel.
9	Wisconsin	- To 4 year and state 2 year system personnel.

Group B - States expected to have legislation introduced to cover de facto collective negotiations in postsecondary educational institutions.

1 Colorado

2 Illinois

3 Ohio

Group C - States which will have legislation introduced in the form of omnibus public employee bills which will, by inclusion, cover postsecondary education personnel.

1	California	Has K-12 law now - Completed Legislative Study
2	Idaho	" - Legislative Study in progress
3	Indiana	"
4	Kentucky	

Group C - Continued

5	Missouri		
6	New Mexico		
7	North Carolina	- Legislative Study in progress	
8	Oklahoma	K-12 meet and confer statute	- Legislative Study in progress
9	Texas	Allows boards to negotiate at K-12 level	- Legislative Study in progress
10	Virginia		
11	West Virginia		

Group D - States in which there may be modest legislative activity on public employee negotiations acts of an omnibus nature.

1	Alabama	4	Tennessee
2	Arizona	5	Utah
3	Arkansas	6	Wyoming

Group E - States in which no real legislative activity of a substantive nature is expected on collective negotiations legislation for postsecondary institutions.

1	Georgia	3	Mississippi
2	Louisiana	4	South Carolina

FEDERAL LEGISLATION

In addition, there are a number of bills which have been introduced at the federal legislation level. The most notable of these are House Bill 8677, the Clay-Perkins Bill, known as the National Public Employment Relations Act of 1973, and, more recently, House Bill 9730. House Bill 9730 would simply make public employees subject to the National Labor Relations Act. House Bill 8677 would create a Public Employment Relations Commission on the national level.

While no action is expected in the House or Senate this fall, we can expect a strong push for a federal law which will supplant or supplement the state laws in the 1975-76 Congress. This federal activity may spur states to pass their own legislation, in part to answer the arguments of some that federal action is needed to redress the effects of state inaction.

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CONCLUSION

What does this say for the growth of collective negotiations in postsecondary education? Some observers feel that by 1980 most of the states will have passed some form of public employee collective negotiations legislation. This legislation will usually include postsecondary teaching and staff personnel. Students of faculty collective bargaining should note that in the public sector the postsecondary teaching personnel are but a very small part of the total public employee work force. Their coverage or non-coverage is only a small sideshow in a much larger picture of policemen, firemen, clerical workers, and so on.

Thus, one can see a progressive upward trend in collective negotiations activity in postsecondary education as state after state passes legislation. Each time a new state is added, one can expect the "ripple effect" to spill over into the private institutions in that state as well. Or we might have a reverse "ripple effect" as in Colorado, where two private colleges began a pattern that may well end in the passage of legislation for the public sector of postsecondary education.

All of the above is certainly food for reflective thought. In summary, legislative activity continues at a very heavy pace. Some researchers have predicted a leveling off of the collective negotiations boom in higher education. But in light of the number of pending state public employee collective bargaining laws, coupled with new realistic federal pressures in the next Congress, this seems less likely.

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